

JAN 11 2 2001

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for State Board of Respiratory Care

By: Sandra Y. Dick
Deputy Attorney General
Tel. (973) 648-4738

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF	:	
	:	Administrative Action
DONNA PENDER-KIMBOROUGH	:	
	:	
LICENSED TO PRACTICE	:	PROVISIONAL ORDER OF
RESPIRATORY CARE IN	:	DISCIPLINE
THE STATE OF NEW JERSEY	:	
	:	

This matter was opened to the Board on information received which the Board has reviewed and on which the following preliminary findings are made.

FINDINGS OF FACT

1. Respondent has been a licensee of the Board at all times relevant hereto.

2. By letter of October 24, 2000, (sent certified and regular mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on November 14, 2000 to discuss with the Board a drug screen she had undergone which allegedly was positive for cocaine metabolites.

JAN 12 2001

(See certification of Dorcas O'Neal, Executive Director of the Board).

3. The certified mail receipt was signed for at respondent's address, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on November 14, 2000 (see certified mail receipt attached).

4. By letter of December 11, 2000 (sent certified and regular mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on January 2, 2001 to discuss the alleged positive drug screen. (See certification of Dorcas O'Neal, Executive Director of the Board).

5. The certified mail receipt was not returned, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on January 2, 2001 (see certified mail letter attached).

CONCLUSIONS OF LAW

Respondent's actions as set forth herein constitute a failure of the duty to cooperate in an investigation of the Respiratory Care Board in violation of N.J.A.C. 13:45C-1.2 and 1.3 which constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

IT IS, THEREFORE ON THIS 8TH DAY OF JANUARY, 2001,

ORDERED THAT:

1. The license of Donna Pender-Kimborough is hereby suspended until such time as she appears for investigative inquiry before the Board of Respiratory Care.

2. The within Order shall become final at 5:00 p.m. on the 30th business day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Dorcas O'Neal, Executive Director, State Board of Respiratory Care, P.O. Box 45031, 124 Halsey Street, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

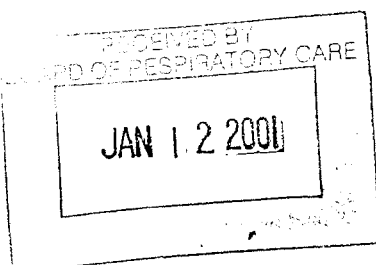
c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

4. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusion of law contained herein shall serve as notice of the factual and legal allegations in such proceeding.

NEW JERSEY STATE BOARD OF
RESPIRATORY CARE

By: 

James Brophy, RRT, Chair



7000 0600 0029 3356 5628

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Postmark Here	

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

Donna Pender-Kimborough
767 6th Road RD #2
Newtonville, N.J. 08346-2035



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE
HALSEY STREET, 6TH FLOOR, NEWARK NJ

JOHN J. FARMER, JR.
Attorney General

MARK S. HERR
Director

December 11, 2000

Mailing Address
P.O. Box 45031
Newark NJ 0710
(973) 504-6485

CERTIFIED/FIRST CLASS
#7000 0600 0029 3356 5628
Donna Pender-Kimborough
767 6th Road RD#2
Newtonville, New Jersey 08346-2035

Re: SECOND REQUEST FOR AN APPEARANCE BEFORE THE BOARD

Dear Ms. Pender-Kimborough:

Information has come to the attention of the New Jersey State Board of Respiratory Care which relates to your responsibilities as a licensee of the Board. The Board has determined that further inquiry is required as authorized by N.J.S.A. 45:1-18 et seq. You are, therefore, directed to appear before the Board of Respiratory Care on January 02, 2001 at 11:00 a.m., Somerset Conference Room, 6th floor, 124 Halsey Street in Newark, New Jersey. If it is your intention to retain counsel, please do so immediately in order to provide your attorney with adequate notice of the date.

The Board's inquiry is based upon, but is not limited to;

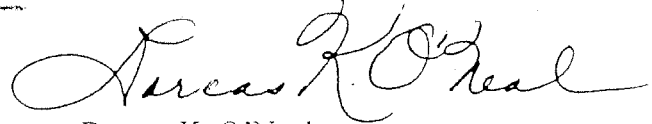
The alleged positive drug screen.

The Board wishes to discuss with you this matter, as well as your overall practice of Respiratory Care. The above matter may involve violation of N.J.S.A. 45:1-21 (e) and N.J.S.A. 45:1-21 (h), and other pertinent laws or rules implemented by the Board.

The purpose of this appearance is to enable the Board to make an appropriate inquiry by affording you an opportunity to discuss this matter with members of the Board and the assigned Deputy Attorney General. A court reporter will be present and you will be requested to testify under oath. You may be accompanied by counsel, if you so desire, provided your attorney is admitted to practice in this State. The Board will then determine whether the inquiry can be resolved at this stage or whether formal procedures appear warranted. Requests for adjournment will be entertained only if made no later than ten (10) days prior to the date of the appearance and

if a requisite showing of good cause is made. Should you fail to secure a different date for your appearance and fail to appear on the date noted, your failure may be deemed to be a violation of N.J.A.C. 13:45C-1.2 If you desire additional procedural information prior to the date listed above, please contact Deputy Attorney General Sandra Dick at 973-648-3265

Very truly yours,

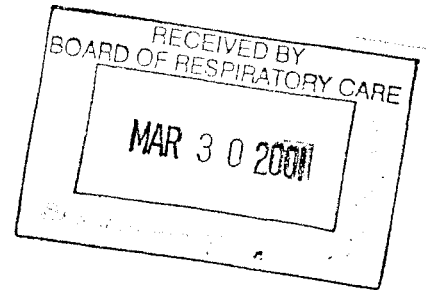
A handwritten signature in cursive script, reading "Dorcas K. O'Neal". The signature is fluid and elegant, with the first letters of each word being capitalized and prominent.

Dorcas K. O'Neal
Executive Director

DKO/ch

c: Sandra Dick, Deputy Attorney

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE



IN THE MATTER OF:

DONNA PENDER-KIMBOROUGH

LICENSED TO PRACTICE RESPIRATORY
CARE IN THE STATE OF NEW JERSEY

I, PAULA J. BENSON, of full age, depose and say:

1. I am a Legal Secretary at the Office of the Division of Law, 124 Halsey Street, Newark, New Jersey, and am the secretary to Sandra Y. Dick, Deputy Attorney General, counsel to the Board of Respiratory Care.

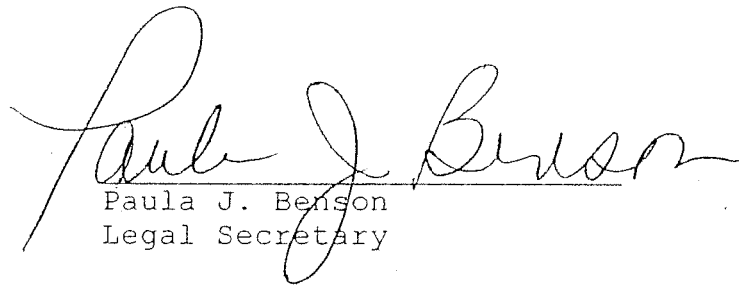
2. On January 8, 2001 a PROVISIONAL ORDER OF DISCIPLINE which was filed with the New Jersey Board of Respiratory Care relative to the above captioned respiratory therapist was mailed by me to Ms. Donna Pender-Kimborough to 767 6th Road, RD #2, Newtonville, NJ 08346-2035, both regular mail and certified mail return-receipt #7099 3400 0017 5439 2793. This Provisional Order allowed Ms. Pender-Kimborough thirty (30) business days in which to submit a written request for modification or dismissal of the Findings of Fact contained in the Provisional Order.

3. The envelope mailed by regular mail was not returned.

4. The envelope mailed by certified return-receipt was returned marked "unclaimed". The attempted delivery notices were dated 1/13/01; 1/24 and 1/28. (Copy of Green Certified receipt and envelope containing Provisional Order - attached).

5. As of this date, no response has been received in this office from Ms. Pender - Kimborough.

I certify that the above statements made by me are true. I recognize that if any of the above statements are willfully false, I am subject to punishment.


Paula J. Benson
Legal Secretary

Dated: March 1, 2001

